THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7021 OF 2003

17.02.2006

Between:

Smt.N.Savithri, W/o.N.Prakash

… Petitioner

AND

The District Collector, Chittoor

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7021 OF 2003

ORDER:

The petitioner owns patta land in survey Nos.130/4, 133/2 and 133/3 admeasuring Acs.1.22 in Penkulapadu village in Chittoor District. She is also in occupation of land admeasuring Acs.0.20 in survey No.129, which is adjacent to her private land. She alleges that she is cultivating the entire land. It appears that on 03.4.2003, the Mandal Revenue Officer, Srikalahasti Mandal (MRO) inspected the land. At that time, the petitioner came to know that steps are being taken to allot the land to third parties as house site pattas by closing the field channel from A.M.Puttur irrigation tank in survey No.128. Apprehending that she would be evicted and the land would be allotted to third parties, she filed the present writ petition seeking a declaration that the action of the respondents in trying to alienate the schedule land by closing the irrigation channel and evicting the petitioner from the land in survey No.129 as illegal and arbitrary. She also seeks a consequential direction to the respondents not to evict the petitioner from the land without considering her request to assign the land.

A counter affidavit is filed by the Mandal Revenue Officer, Srikalahasti Mandal. It is stated that there is no proposal to close the channel, as it is watercourse to the cheruvu and that there is no proposal to allot the land to third parties. It is also stated that the petitioner is in encroachment of the land in survey No.128 classified as Kalva Poramboke and that Kalva Poramboke is required to be retained as such. A reference is also made to the instructions issued by the District Collector vide Roc E5/7665/2002 dated 04.9.2002 directing the MRO to protect all the tank beds. It is further stated in paragraph No.7 of the counter affidavit that for eviction of the petitioner from the Kalva Poramboke, action will be taken in accordance with law, to safeguard the watercourse.

This Court passed interim orders on 06.5.2003 in I.A.No.9148 of 2003 directing the third respondent not to close the Channel and the respondents 1 to 3 have filed W.V.M.P.No.950 of 2005 to vacate the interim orders. As it is a short matter, the matter was heard finally and is being disposed of at the interlocutory stage.

The possession of the petitioner in respect of Acs.0.20 of land in survey No.129 is not denied, nor the MRO denies the position that unless and until due process of law is followed the petitioner cannot be evicted. It is needless to point out that even if the petitioner is in possession or occupation of Kalva Poramboke, which cannot be assigned, the petitioner cannot be evicted unless and until due process of law is followed. If the petitioner is landless and poor person, her request for assignment of other land is considered in accordance with law subject to conditions of eligibility.

As the writ petition is filed on mere apprehension and having regard to the averments made in the counter affidavit that the petitioner would be evicted from the land (Kalva Poramboke) in accordance with law, the writ petition is disposed of with the observation as above. No costs.

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(**V.V.S.RAO, J**)

February 17, 2006

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